

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 11-03-03. Dates of service 10-30-02 through 11-01-02 were not timely filed per Rule 133.308(e)(1).

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The required reports were found to be medically necessary. The office visits, diathermy, electrical stimulation, joint mobilization, myofascial release and TENS were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for office visits, required reports, diathermy, electrical stimulation, joint mobilization, myofascial release and TENS.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to date of service 03-13-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 16<sup>th</sup> day of January 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

January 9, 2004

**Revised January 21, 2004**

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #:  
IRO #:

M5-04-0673-01  
5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ was injured on \_\_\_. She had been treated with physical therapy and cortisone injections and evaluated by a neurologist who recommended release of the compressed nerve. Patient declined that treatment. She was treated with more conservative therapy by \_\_\_.

#### DISPUTED SERVICES

Under dispute is the medical necessity of office visits, required reports, diathermy, electrical stimulation, joint mobilization, myofascial release and tens (consumable supplies).

#### DECISION

The reviewer agrees with the prior adverse determination for all of the disputed services with exception to the costs for reproduction of records required by TWCC.

#### BASIS FOR THE DECISION

This patient was treated conservatively from the date of her injury, with a surgical recommendation for release recommended in approximately August 2002 (DD report dated March 2003 states that it was made approximately 7 months prior to date of exam). At the time the disputed services were rendered, the diagnosis for this patient was bursitis. The dates of injury in question are from \_\_\_ through \_\_\_. A simple case of bursitis would not have lasted from \_\_\_ through \_\_\_. Additionally, records indicate that physical therapy procedures had already been previously performed. Passive modalities are not indicated after the first 6 weeks of care without prior approval from the carrier. There was no record of such approval in the records reviewed. Records indicated that there may have been a very temporary relief of pain after manipulative therapy, however, there was little material change in the patient's condition.

It would appear that further material progress was halted by patient's refusal of the recommended surgical procedure. Further conservative measures were not indicated en lieu of her continued symptoms and the length of time since her injury.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,